MULTIMEDIA UNIVERSITY

STUDENT ID NUMBER

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2015/2016

UMY1612 MALAYSIAN LEGAL SYSTEM I

(All Sections/ Groups)

7th October 2015
Reading Time: 2.30 pm - 2.45pm
(15 Minutes)
Answering Time: 2.45 pm – 5.45 pm
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 2 pages with 5 Questions only.

3. Attempt **FOUR** out of **FIVE** questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copy of:
   i. Civil Law Act 1956
   ii. Federal Constitution of Malaysia

5. Please write all your answers in the Answer Booklet provided.

QUESTION 1

a) Explain the meaning of the following terms:

- *Stare decisis*
- *Per incuriam*
- *Res judicata*
- *Orbiter Dicta*
- *Ratio Decidendi*

[10 marks]

b) Malaysia's apex court has changed from the Privy Council to the Supreme Court and lastly to the Federal Court. By examining the doctrine of stare decisis, how binding are the decisions of the previous apex court to the Federal Court and whether the Federal Court is bound by its own previous decisions? Discuss your answer with relevant case laws.

[15 marks]

(Total: 25 Marks)

QUESTION 2

Sections 3, 5 and 6 of the Civil Law Act 1956 permit judges with wide discretion to import the English common law, rules of equity and statutes into the Malaysian legal system to fill lacunae in Malaysian law, if any, but this discretion is not absolute and is subject to restrictions.

With reference to decided cases and relevant authorities, discuss the applicability of English law in Malaysia.

(Total: 25 marks)

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QUESTION 3

"indulgent, rather than a critical, attitude, towards delegated legislation, and it is only rarely that a court will hold a regulation ultra vires...On the whole, one can say that judicial review of delegated legislation is more of a symbolic value rather than of much practical value" – Kruse v Johnson [1898] 2 QB 91

a) On what ground may the court declare a subsidiary legislation *ultra vires*?

(15 marks)

b) Subsidiary legislation could also be controlled via the legislature. Explain.

(10 marks)

(Total: 25 marks)

QUESTION 4

The introduction of English law impacted more on the Chinese and Indian communities as there was no separate courts to administer the customary laws of the Chinese and Indian Communities. With reference to decided cases and relevant authorities, to what extend is Chinese and Indian customary laws applicable on family matters and the impact of Law Reform (Marriage and Divorce) Act 1976?

(Total: 25 Marks)

QUESTION 5

It is a well know fact that Malaysia has a rich history and multitude influence on its culture and legal system from the outside world even before the coming of the British. Discuss.

(Total: 25 marks)

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